

Message

From: McCoy, Melissa [mccoy.melissa@epa.gov]
Sent: 10/18/2022 11:48:53 PM
To: Engels, Alan [engels.alan@epa.gov]
CC: Smith, Julie [Smith.Julie@epa.gov]
Subject: RE: FOIA EPA-R8-2023-000348 - (I-270 Expansion (NEPA and CCA documents))

Hi Alan,

Julie and I have reviewed the request and spoken about potentially responsive individuals, and by our reading of the request, the potentially responsive records, beyond communications that occurred between Julie and Stephanie Gibson, would have to be related to those communications between Julie and Stephanie Gibson. We expect that there are very few communications between Julie and Stephanie and so records related to those communications would also be limited in number. It may make sense to first gather those communications between Julie and Stephanie, and after evaluating the content of those communications, then determine which other individuals would have potentially responsive records (i.e., records related to those communications). However, our best prediction at this time is that Chris Razzazian, Greg Lohrke, and Adam Eisele (all from ARD) would have responsive records.

Please let us know if we should meet to discuss the scope of the request.

Thanks,
Melissa

Melissa W. McCoy, Ph.D.
Manager, NEPA Branch
U.S. EPA Region 8 (8ORA-N)
1595 Wynkoop St.
Denver, Colorado 80202-1129
Ph: (303) 312-6155
F: (303) 312-7203

From: McCoy, Melissa
Sent: Tuesday, October 18, 2022 4:41 PM
To: Engels, Alan <engels.alan@epa.gov>; Smith, Julie <Smith.Julie@epa.gov>
Cc: Smith, Mark A. <Smith.Marka@epa.gov>; Risko, Dianna <Risko.Dianna@epa.gov>; Talbert, Stephanie <Talbert.Stephanie@epa.gov>
Subject: RE: FOIA EPA-R8-2023-000348 - (I-270 Expansion (NEPA and CCA documents))

Thank you, Alan. I will discuss with Julie and let you know who else may have responsive records.

-Melissa

Melissa W. McCoy, Ph.D.
Manager, NEPA Branch
U.S. EPA Region 8 (8ORA-N)
1595 Wynkoop St.
Denver, Colorado 80202-1129
Ph: (303) 312-6155
F: (303) 312-7203

From: Engels, Alan <engels.alan@epa.gov>
Sent: Tuesday, October 18, 2022 4:21 PM
To: Smith, Julie <Smith.Julie@epa.gov>
Cc: McCoy, Melissa <mccoy.melissa@epa.gov>; Smith, Mark A. <Smith.Marka@epa.gov>; Risko, Dianna <Risko.Dianna@epa.gov>; Talbert, Stephanie <Talbert.Stephanie@epa.gov>
Subject: FOIA EPA-R8-2023-000348 - (I-270 Expansion (NEPA and CCA documents))

Please be advised that Region 8 received a FOIA request today. The request is described below.

Under the scope of the request section # 2, we will need to know who else might have responsive emails / records as described in scope of the request # 3 (form of Records). The date range for the request is under # 1 of the scope of the request.

Please reply to Dianna and myself, so that we can work with e-Discovery personnel to develop search terms to collect potentially responsive emails, and you will need to begin searching for any digital/hard copy records in your possession that would be considered responsive to the request.

As NEPA is under IOB within the RA's Office, the response letter will be signed by Mark Smith. We will likely need to request an extension for the due date to allow staff in NEPA to review potentially responsive material. The background of the request mentioned NEPA and CAA, so let me know if anyone in ARD should also be included in the email custodian list. Before Mark Smith signs off on any interim / final response letter, all responsive records must be reviewed by your supervisor, Melissa McCoy, unless IOD leadership wants that to fall to Dan Heffernan.

Please let us know if you have any questions.

The language of the request.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, as amended, Public Employees for Environmental Responsibility ("PEER"), requests certain information and communications from the Environmental Protection Agency (EPA) and the (FHWA/DOT) regarding the Colorado I-270 expansion project.

PEER requests the following records:

1. All communications relating to the I-270 expansion project between Julie Smith, EPA Region 8 Transportation Specialist and Stephanie Gibson, FHWA/DOT.
2. Documents and communications related to any material described in Request #1.

If the above requests are unclear, result in an abnormally large number of results, or otherwise impracticable please contact the requester to provide clarification or narrow the scope of the request accordingly.

Responsive records should exclude routine or automatically generated emails such as news alerts, roundups, or similar services.

PEER specifically requests that a search be conducted of the agency's SharePoint, Google Drive, DropBox, or any similar system of file storage and management, as well as files stored locally on any relevant custodian's hard drive or cloud-computing OneDrive system.

To protect individual employees, PEER does not seek the full names or other personally identifying information of employees named in responsive documents if it would unreasonably infringe upon their personal privacy.

Scope of Request

1. Dates of Records

This request is limited to records and information generated between October 17, 2021 and the date of this request.

2. Custodians

This request is not limited to documents exchanged between the listed persons and should include communications exchanged between any listed person and any other person that otherwise are responsive to this request. (Judy Smith, EPA Region 8 Transportation Specialist is not an EPA Employee)

3. Form of Records

Under FOIA, you are obligated to provide records in a readily-accessible electronic format and in the format requested. 5 U.S.C. § 552(a)(3)(B) ("In making any record available to a person under this paragraph, an agency shall provide the

record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format.”).

This request includes all final documents that have ever been within the agency’s custody or control, whether they exist in agency “working,” investigative, retired, electronic mail, or other files. All electronic records should be delivered in their original file format with original metadata and any attachments included. Physical records should be scanned or otherwise converted into electronic format.

Responsive records should include electronic messages (including email, texts, chats, and instant messaging via Google, iMessage, WhatsApp, Facebook, Slack, Microsoft Teams, Skype, and any similar services) stored on any desktop, laptop, tablet, server, commercial document sharing service (Microsoft Teams or OneDrive) or mobile device, as well as handwritten materials, if they have not been digitized. Please also provide all attachments or linked materials if they are in the agency’s possession or control.

For electronic records, please provide all records in their native file formats (i.e. not converted to PDF) with all metadata included, and for records such as emails which have files embedded or attached, please provide all attachments in their native formats. If records can only be produced as PDFs, we request all records be text searchable and OCR formatted. Additionally, please provide the records either in (1) load-ready format with a CSV file index or excel spreadsheet, or, if that is not possible; (2) in .pdf format, without any “portfolios” or “embedded files.” Portfolios and embedded files within files are not readily-accessible. Please do not provide the records in a single, or “batched,” .pdf file.

For instant messages, plain text or screenshots of text message conversations are acceptable consistent with guidance issued by the National Archives and Records Administration.

4. Withholdings and Exemptions

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

Additional Background information provided by the requester:

PEER is concerned that the FHWA and Colorado Department of Transportation (CDOT) are failing to meet the planning requirements of the National Environmental Policy Act (NEPA) for a planned highway expansion in an environmental justice area. Additionally, the Clean Air Act (CAA) mandates that the highway expansion does not cause or contribute to any localized violations of the National Ambient Air Quality Standards (NAAQS), increase or exacerbate existing violations, or delay emission reduction goals. Colorado is experiencing well-known violations of these standards, and the residents of north Denver may be its worst victim. Commerce City is bordered and bisected by interstate highways and is home to the Suncor Oil Refinery and the Cherokee fossil fuel power plant. EPA, in its oversight capacity, has a crucial role to play in the project planning.

This community is 83.8% Latino and 44.4% low-income and has been identified as the most polluted zip code in Colorado. As the I-270 expansion is being planned, the community is already enduring the construction of another highway expansion on Interstate 70, for which 56 homes and 17 businesses were demolished.

We are concerned that the agencies have predetermined the outcome of the massive project and are failing to consider the cumulative impacts of yet more planned pollution on the community.

Alan V. J. S. Engels
Regional FOIA Officer
US EPA, Region 8
1595 Wynkoop St.
8ORC-LCG
Denver, CO 80202

(303) 312-6306
Engels.alan@EPA.gov

